

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CHRISTOPHER R. WEEKS,

Plaintiff,

-against-

NEW YORK CITY DEPARTMENT
OF CORRECTIONS, ET AL.,

Defendants.

ORDER
08 Civ 3936 (CM)

USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 4/21/09

McMahon, J.:

Plaintiff filed his complaint in this matter on April 28, 2008. Because this is a *pro se* civil rights case, Chief Judge Kimba M. Wood issued an order giving plaintiff sixty days to file an amended complaint that pleads a facially sufficient claim and is otherwise compliant with court rules. After some delay, summonses for the defendant's were issued on November 19, 2008.

Plaintiff wrote to the Court in December 2008, complaining about his inability to serve defendants because prison officials at the facility he was in were not allowing him access to the law library "whenever I sign up." (Plaintiff Letter dated December 1, 2008). The Court received another letter from plaintiff later that month indicating that he had been transferred to Butler Correction Facility. (Plaintiff Letter dated December 23, 2009). There has been no further communication from plaintiff and no proof of service filed.

Rule 4(m) of the Federal Rules of Civil Procedure provides that proof of service of the summons and complaint shall be filed with the clerk of the court within 120 days of the filing of the complaint. Plaintiff's deadline to serve defendants expired on March 19, 2009.

Plaintiff has had plenty of time since being transferred to Butler to arrange with the Marshals Service to serve defendants. The Court has had many incarcerated *pro se* plaintiffs who have arranged to have defendants served within the prescribed time. Plaintiff has not contacted the Court in over three months. He has not asked for an extension of time to serve defendants or written to the Court to explain his continued failure to serve. Plaintiff's failure to file proof of service or to contact the court to explain why he has failed to serve defendants suggests that he has chosen to abandoned this action

Accordingly, plaintiff has Thirty (30) Days to file proof that he has served defendants. Plaintiff's failure to file proof of service or to satisfactorily explain why he has failed to do so

will result in this case being dismissed for failure to prosecute.

Date: April 20, 2009
New York, NY



Hon. Colleen McMahon
United States District Judge

BY FIRST CLASS MAIL:

Christopher R. Weeks
08-A-3258
Butler Correctional Facility
Red Creek, NY 13143